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June 19, 2012

**VIA MESSENGER**

Jeff S. Jordan

Supervisory Attorney

Complaints Examination & Legal Administration

Federal Election Commission

999 E Street, NW

Washington, D.C. 20463

**Re: MUR 6583**

Dear Mr. Jordan:

On behalf of Berkley for Senate and Steven Mele, in his capacity as treasurer, and the Nevada State Democratic Party and Jan Churchill, in her capacity as treasurer, (collectively, "Respondents") we submit this letter in response to the Complaint filed by the Washoe County Republican Party, dated May 24, 2012. An executed Statement of Designation of Counsel for each party accompanies this response.

This Complaint is founded on a fundamental misunderstanding of the disclaimer requirements for coordinated party expenditures. It wrongly assumes that the Respondents distributed coordinated mail pieces as party exempt mail, and argues that if the mail pieces were done as coordinated party expenditures, that they did not include the required disclaimer. In fact, the mail pieces at issue were paid for pursuant to the coordinated party expenditure authority of the Nevada State Democratic Party, and they included the disclaimer required for such communications. The Commission should, therefore, find no reason to believe that the Committee violated the Federal Election Campaign Act of 1971, as amended, (the "Act") and dismiss the matter immediately.

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**I. Respondents Paid for the Mail Pieces Pursuant to the Coordinated Party Expenditure Authority of the Nevada State Democratic Party under § 441a(d)**

Under the Act, political parties have special authority to pay for a certain amount of expenses that are fully coordinated with candidates. See 2 U.S.C. § 441a(d). Under FEC regulations, political party communications that are coordinated with a candidate must be treated as either an in-kind contribution to the candidate or a coordinated party expenditure pursuant to § 441a(d) in connection with the general election of the candidate with whom it was coordinated. 11 C.F.R. § 109.37(b). Coordinated party expenditures may be made under § 441a(d) before or after a party's candidate has been nominated, provided that all pre-nomination coordinated party expenditures are subject to the coordinated party expenditure limitations, whether or not the candidate on whose behalf they are made receives the party's nomination. *Id.* § 109.34.

The mail pieces at issue in the Complaint were paid for by the Nevada State Democratic Party pursuant to the authority granted to it in § 441a(d). The Complaint itself recognizes that such payment is permissible under the Act and correctly notes that, as the pieces were distributed prior to the primary election, the cost of the mail pieces must "count against the NSDP's coordinated party expenditure limit." Respondents' intention has always been for the mail pieces to count against this limit. The expenditures will be reported on Line 25 of the Nevada State Democratic Party's monthly report covering the month of May.

**II. Each Mail Piece Contained the Disclaimer Required on Coordinated Party Communications Paid for Pursuant to § 441a(d) and Distributed Prior to the Primary Election**

Under FEC regulations, "a communication made by a political party committee pursuant to 2 U.S.C. 441a(d) and distributed prior to the date the party's candidate is nominated shall satisfy the [disclaimer] requirements of this section if it clearly states who paid for the communication." *Id.* § 110.11(d)(1)(ii). A §441a(d) expenditure for a communication distributed before the primary does not need to state whether a candidate authorized the communication. The Commission's guide for Political Party Committees makes this abundantly clear, spelling out the rule and offering an example that matches the disclaimer used in the mailpieces at issue. See *Federal Election Commission Campaign Guide for Political Party Committees* at 59 (July 2009 ed.).


As the Complaint notes, the mail pieces at issue here were distributed before the primary election in Nevada. Therefore, the mail pieces contained the appropriate disclaimer: "Paid for by the Nevada State Democratic Party."

For the reasons set forth above, Respondents respectfully request that the Commission find no reason to believe that they have violated the Act, and dismiss this matter immediately.

Jeff S. Jordan  
June 19, 2012  
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Respondents also request that, due to the frivolous nature of the Complaint, Commission staff carefully review any future complaints filed by the Washoe County Republican Party before requesting a response from Respondents.

Very truly yours,



Marc E. Elias  
Ezra W. Reese  
Danielle E. Friedman

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FEDERAL ELECTION COMMISSION  
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Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL  
Please use one form for each Respondent/Entity/Treasurer  
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MUR # 6583

NAME OF COUNSEL: Marc Elias / Ezra Reese / Danielle Friedman

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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

6/5/12

Date

[Signature]  
Respondent/Agent-Signature

Treasurer

Title (Treasurer/Candidate/Owner)

Berkley for Senate & Steven Mele, Treasurer

RESPONDENT:

(Committee Name, Company Name, or Individual Named in Notification Letter)

MAILING ADDRESS: 7437 S Eastern Avenue, Suite 427

(Please Print)

Las Vegas, NV 89123

TELEPHONE- HOME \_\_\_\_\_

BUSINESS (202) 675-6709

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.



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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

6/5/12  
Date

*Jan Churchill*  
Respondent/Agent Signature

Treasurer

Title (Treasurer/Candidate/Owner)

RESPONDENT: Nevada State Democratic Party & Jan Churchill, Treasurer  
(Committee Name, Company Name, or Individual Named in Notification Letter)

MAILING ADDRESS:  
(Please Print)

Las Vegas, NV 89107

TELEPHONE- HOME (

BUSINESS (702) 824-1960

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